

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

UNITED STATES OF AMERICA §  
§  
VS. § CAUSE NO. H-15-CR-301  
§  
YANNA GASSAWAY §  
aka YANNA NORRIS § JUDGE KEITH P. ELLISON  
aka CUMILLE GASSAWAY §  
aka CUMILE NORRIS §  
Defendant §

**PRESENTENCE MEMORANDUM**

COMES NOW, defendant, Yanna Gassaway and files this presentence memorandum asking for this court's mercy and for a variance in accordance with *United States v. Booker* and in support shows the court the following:

**Trial Court Finding of Guilty**

When Ms. Gassaway arrived in Houston for her trial, she was under the impression that she would have a jury trial, however, on advice of counsel, with whom she had done little preparation, the case was heard before this court and she was found guilty. While Ms. Gassaway disagrees with the finding of guilt, she fully understands why the court found her guilty and asserts that under the presentation and defense presented, this court had little choice but to find her guilty. Ms. Gassaway, not wanting to jeopardize any appellant rights, however, after reflection and consideration of the trial understands the finding.

**Family Life and Children**

Ms. Gassaway's family situation as included in the probation report gives a fair picture. She has always been supported by and supported her children. She has

encouraged them to do what is right and feels devastated that they have to see their mother facing such drastic consequences. Her youngest child still resides with her and they provide mutual support. Another child, her 24 year old resides with her as well.

### **Purpose of the Money Received**

Mr. Billy Wilson wired the money to Ms. Gassaway's attorney and she thought the money was her fee for services rendered. She never had met Kenneth Wayne Davis, the party who forwarded the counterfeit check and had no knowledge that he had deposited a counterfeit check. When Mr. Wilson testified that the money was to be invested, Ms. Gassaway was shocked. Certainly, whatever service she was providing was not being done without compensation. What was to be her compensation in this matter? In hindsight, Ms. Gassaway feels that her testimony would have added clarity and rebutted Mr. Wilson's testimony but as the court is aware she was not called to testify.

### **Request for Departure**

Yanna Gassaway asks this court for a variance or departure to sentence her at a lower range than what the sentencing guidelines would impose and asserts the following to support that request.

- (1) Yanna Gassaway, defendant, believes that a careful examination of all of the facts and circumstances developed in this investigation show mitigating circumstances which suggest that a departure from the sentencing guidelines, or a variance in accordance with *United States v. Booker*, would be appropriate.
- (2) Defendant believes that a departure or variance should be granted because

of her physical condition in that Ms. Gassaway suffers from a severe case of sickle cell anemia that requires constant hospitalizations for blood transfusions. Without these transfusions, she will not be able to maintain and if imprisoned will be a severe burden on the system. Previously, the defendant has presented medicals to the court to support the illness for which she suffers. The condition is a lifelong illness. So, Ms. Gassaway agrees with the probation's point that her health may warrant a variance or departure in this matter.

Probation says in its PSR:

"Pursuant to USSG § 5H1.4, if the defendant's physical condition, individually or in combination with other offender characteristics, is present to an unusual degree and distinguishes the case from the typical cases covered by the guidelines a downward departure may be appropriate. The defendant suffers from sickle beta thalassemia, a rare form of sickle cell disease. This condition is lifelong and requires her to undergo blood transfusions on a regular basis. Further, the defendant has been diagnosed with multiple arteriovenous malformations, an abnormal connection between arteries and veins that bypass the capillary system. This vascular anomaly can cause intense pain or bleeding. In September 2018, the defendant underwent an endoscopic procedure to repair a bleeding blood vessel in her abdomen. The defendant stated she continues to experience some pain from the procedure but has otherwise recovered. The defendant reported she is prescribed the following medications to treat her medical conditions and the manage the pain associated with those conditions: Ondansetron, Tranexamic acid, Cirprofaxacin, Albuterol sulfate inhaler, Metoclopramide, and Hydrocodone."

This condition is irreversible, impacts the defendant's ability to function, and makes it difficult for defendant navigate life at times.

(3) As the presentence report shows, Ms. Gassaway has very little previous criminal history and is not a threat to participate in anything like this again. Therefore, she believes, that a variance or departure would be in the best interests of justice.

(4) Ms. Gassaway also feels that a variance or departure would be appropriate considering the fact that it appears that Mr. Kenneth Wayne Davis, who was the individual who deposited a counterfeit check into his Bank of America account has never

been charged at all. No evidence showed that Ms. Gassaway knew Mr. Kenneth Wayne Davis at all. According to the government, Mr. Billy Wilson obtained the assistance of Kenneth Wayne Davis to be an investor.

WHEREFORE, PREMISES CONSIDERED, Ms, Gassaway asks the court to grant a variance or departure as raised by probation because of her severe health condition and defendant prays that the court will grant the variance requested in this motion.

Respectfully Submitted

*Troy J Wilson*

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#### **CERTIFICATE OF SERVICE**

I certify that a copy of this motion has been served on the assistant United States attorney in charge of this matter on this 20<sup>th</sup> day of February, 2019.

*Troy J Wilson*

Troy J Wilson